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AN ACT
RESPECTING
THE MILITIA.

27 Vict., Cap. 2.



QUEBEC:
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1863.

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ANNO VICESIMO-SEPTIMO

VICTORIÆ REGINÆ.

CAP. II.

An Act respecting the Militia.

[Assented to 15th October, 1863.]

HER Majesty, by and with the advice and consent of the Preamble.
Legislative Council and Assembly of Canada, enacts as follows :

1. The Governor shall, by virtue of his Office, be Com- Governor to be
mander in Chief of the Militia. Commander in
Chief.

2. The Militia shall consist of all the male inhabitants of Of whom the
the Province of the age of eighteen years or upwards and under Militia shall
sixty, not exempted or disqualified by law. consist.

3. The Militia shall be divided into three classes, to be Militia divided
called respectively first class Service Men, second class Service into three
Men and Reserve Men : the first class Service Men shall be classes.
those of eighteen years of age and upwards, but under forty- First.
five years, who are unmarried Men or widowers without children, and the second class Service Men shall be those Second.
between the ages last aforesaid who are married Men or Reserve.
widowers with children,—and the Reserve Men shall be those of forty-five years of age and upwards, but under sixty years.

EXEMPTIONS.

4. The following persons only, between the ages of eighteen and sixty years, shall be exempt from enrolment as hereinafter mentioned, and from actual service at any time : Certain func-
tionaries &c.,
to be wholly
exempt.

The Judges of the Superior Courts of Law or Equity in Upper and Lower Canada ;

The Judge of the Court of Vice-Admiralty ;

The Judges of the County Courts ;

The Clergy and Ministers of all Religious denominations ;

The Professors in any College or University and all teachers in religious orders ;

The Warden, Keepers and Guards of the Provincial Penitentiary ;

2. And the following, though enrolled, shall be exempt from attending muster and from actual service at any time except Exemptions
except in case, of war, &c.
in case of war, invasion or insurrection :

The Reserve Men ;

The Members of the Executive and Legislative Councils ;

- The Members of the Legislative Assembly ;
- The Officers of the said Councils and Assembly respectively ;
- The Attorneys and Solicitors General ;
- The Provincial Secretary and Assistant Secretaries ;
- All Civil Officers appointed to any Civil Office in this province under the Great Seal ;
- All persons lawfully authorized to practise Physic or Surgery ;
- Half-pay and Retired Officers of Her Majesty's Army or Navy ;
- Postmasters and Mail Carriers ;
- Seafaring Men actually employed in their calling ;
- Pilots and Apprentice Pilots during the Season of Navigation ;
- Masters of Public and Common Schools actually engaged in teaching ;
- Ferry-men ;
- One Miller for each run of stones in every Grist Mill ;
- Keepers of public Toll-Gates ;
- Lock Masters and Labourers employed in attending to Locks and Bridges on Public Canals ;
- The Engine Drivers, Conductors and Switchmen connected with the several Railways actually in use in this Province ;
- Members of Fire Companies and of Hook and Ladder Companies ;---or persons having served as such regularly during seven consecutive years, and having a certificate thereof from the proper Officer under the *Act to exempt Firemen from certain local duties and services* ;
- Officers, non-commissioned officers and men of the Volunteer Force whilst on the Roll of any Corps or Battalion and serving therein ;
- Jailors, Constables and Officers of Courts of Justice, not being such solely by virtue of their being non-commissioned Officers of Militia ;
- Students attending Seminaries, Colleges, Schools and Academies, who have been attending such at least six months previous to the time at which they claim such exemption ;
- All

All persons disabled by bodily infirmity ;

All persons bearing Certificates from the Society of Quakers, Menonists and Tunkers, or any inhabitant of this Province, of any Religious denomination, otherwise subject to Military duty in time of Peace, but who, from the doctrines of his Religion, is averse to bearing arms and refuses personal Military Service, shall be exempt therefrom ; but exemptions under this clause shall not prevent any person from serving, or, if an Officer holding a Commission in the Militia, if he desires it and is not disabled by bodily infirmity ;—And no person shall have the benefit of such exemption, unless he has, at least one month before he claims such benefit, filed his claim thereto with his *affidavit* made before some Magistrate (or affirmation in cases where persons are allowed to affirm) of the facts on which he rests his claim, with the Clerk of the Municipality within the limits whereof he resides ;—And whenever exemption is claimed, whether on the ground of age or otherwise, the burden of proof shall always be upon the claimant.

Persons having religious scruples.

Exemption must be claimed.

Burden of proof.

REGIMENTAL DIVISIONS.

5. All Military Districts heretofore and now existing, and all divisions thereof respectively, are hereby annulled and abolished ;—And each County in this Province shall constitute a Regimental Division ; and the Commander in Chief, by any General Order, may designate the Regiment in each of such divisions by such name or number or both as he sees fit, (e. g. The first or [*name of County*] Regiment of Militia) and may, from time to time, connect one or more Counties as a Regimental Division, and vary or alter the same ; but for the purposes of this Act the City of Quebec shall be held to be in the County of Quebec, and the City of Montreal to be in the County of Hochelaga, and the City of Toronto to be in the County of York.

Present divisions abolished.

Each County to be a Regimental division.

As to Quebec, Montreal and Toronto.

SERVICE MILITIA.

SERVICE ENROLMENT IN UPPER CANADA.

6. The mode of enrolment of the Militia shall, in Upper Canada, be as follows, that is to say :—the Assessor or Assessors for each Municipality in Upper Canada shall, annually, commencing with the year one thousand eight hundred and sixty-four, and at the same time when they are engaged in taking the Assessment of real and personal property in their respective Municipalities, include in their Assessment Roll, the names and residences of all male persons in their respective Municipalities, between the ages of eighteen and sixty years ; and they shall prepare three additional columns in such Assessment Roll, which shall be headed respectively "First Class Service Militia Roll," "Second Class Service

Mode of enrolment in U. C.

Rolls to be made by assessors yearly.

Columns for different Classes.

First class. Service Militia Roll" and "Reserve Militia Roll,"—and they shall insert in the "First Class Service Militia Roll" the names of all male persons of eighteen years of age and upwards, but under forty-five years, who are unmarried men or widowers without children, and in the "Second Class Service Militia Roll," the names of all male persons of eighteen years of age and upwards but under forty-five years, who are married men or widowers with children, and in the "Reserve Militia Roll," the names of such persons as are forty-five years of age and upwards, but under sixty years; and the copy required by Law to be made of any such Assessment Roll for transmission to the County Clerk, shall contain the additions herein specified; and in addition to any oath or certificate required under the present or any future Laws of this Province, to be taken or given by such Assessor or Assessors, in respect to the Assessment Roll, there shall also be made and attached to the said Roll the following certificate signed by such Assessor or Assessors;

Form. "I do certify that I have truly and faithfully and to the best
Certificate. "of my knowledge, information and belief, set down, in the
"above Militia Rolls, the names of all male persons within the
"Municipality of (*as the case may be*), liable to be enrolled by
Oath. "the Militia Laws of this Province;" and such certificate
shall be verified by him, or them, upon oath, before a Justice of
the Peace.

County Militia 7. The Clerk of the Council of each County or Union of
Rolls to be Counties in Upper Canada, shall, within fourteen days after
made from the receipt by him of such Assessment Rolls, carefully compile
Assessment from them the County Militia Rolls, shewing the names and
Rolls and by residences of those on the "First Class Service Militia Roll"
whom: what "Second Class Service Militia Roll" and "Reserve Militia
they must Roll" and shall make and attach to the said Roll the following
show. certificate to be signed by him:

Certificate. "I do certify that I have truly and faithfully copied from the
"Assessment Rolls of the several Municipalities in the County
"of the above Militia Rolls hereto appended."

By whom such And shall verify the same on oath before a Justice of the Peace;
Rolls shall be and such County Militia Roll so certified shall be by the County
kept. Clerk forthwith delivered to the Clerk of the Peace to be filed
away in his office for use as hereinafter mentioned; and the
Fee. Clerk of such County Council shall be paid for the same at the
rate of twenty-five cents for compilation of the names and
residences of every one hundred persons on the said County
Militia Rolls.

Certain powers 8. Chapter fifty-five of the Consolidated Statutes for Upper
and provisions Canada, and its several provisions, subject to those of any Act
relative to as- amending them, relative to Assessments, shall be applicable
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to the enrolment of the Militia as hereinabove mentioned, and shall, in so far as such enrolment extends, be read and deemed as part thereof, and every Assessor shall, as regards the making of the said Militia Rolls, have the same duties and powers and the same liabilities, in case of any default on his part, as he has with regard to the Assessment Rolls.

extended to the
making of
Militia Rolls.

9. All tavern-keepers, keepers of boarding houses, persons having boarders in their families, and every master and mistress of any dwelling house, shall, upon the application of any Assessor, give information of the names of all persons residing or lodging in such house, liable to be enrolled, and all other proper information concerning such persons as such Assessor may demand.

Tavern keepers
&c., to give
the requisite
information to
assessors.

SERVICE ENROLMENT IN LOWER CANADA.

10. The mode of enrolment of the Militia shall in Lower Canada be as follows, that is to say :—the Assessor or Assessors, Valuator or Valuators for each Municipality in Lower Canada, in which a Valuation or Assessment Roll is made in each year, shall, annually, and the Assessors or Valuators in each Municipality in Lower Canada, in which such Roll is not made annually, shall in each year after the present in which such Roll is made, commencing with the year one thousand eight hundred and sixty-four, and at the same time when they are engaged in taking the Assessment or Valuation of real and personal property in their respective Municipalities, include in their Valuation or Assessment Roll, the names and residences of all male persons in their respective Municipalities, between the ages of eighteen and sixty years ; and they shall prepare three additional columns in such Valuation or Assessment Roll, which shall be headed respectively “First Class Service Militia Roll,”—and “Second Class Service Militia Roll,”—and “Reserve Militia Roll,”—and they shall insert in the “First Class Service Militia Roll” the names of all male persons of eighteen years of age and upwards, but under forty-five years, who are unmarried men and widowers without children, and in the “Second Class Service Militia Roll” the names of all persons of eighteen years of age and upwards, but under forty-five years of age, who are married men and widowers with children, and in the “Reserve Militia Roll,” the names of such persons as are forty-five years of age and upwards, but under sixty years ; and the copy required by Law to be made of any such Valuation or Assessment Roll for transmission to the Warden of the County, shall contain the additions herein specified ; and in addition to any oath or certificate required under the present or any future Laws of this Province, to be taken or given by such Assessor or Assessors, Valuator or Valuators in respect to the Assessment or Valuation Roll, there shall also be made and attached to the said Roll the following certificate signed by such Assessor or Assessors, Valuator or Valuators ;

Mode of enrol-
ing Militiamen
in L. C.

Rolls to be
made by As-
sessor or
Valuators.

Columns for
the different
classes of
Militiamen.

First Class.

Second.

Reserve.

Copy transmit-
ted to Warden
to contain such
Rolls.

Certificate to be attached to such Rolls.

And attested on oath.

"I do certify that I have truly and faithfully and to the best of my knowledge, information and belief, set down in the above Militia Rolls, the names of all male persons within the Municipality of (*as the case may be*), liable to be enrolled for service by the Militia Laws of this Province;" and such certificate shall be verified by him, or them, upon oath, before a Justice of the Peace.

Rolls to be sent to County Warden from certain Municipalities in L. C.

11. As respects any City, Town, or Village Municipality in Lower Canada, the Assessment or Valuation Roll whereof is not by law required to be delivered to the County Warden, the assessors or valutors shall deliver a true copy, certified as aforesaid, of the Militia Rolls on any such Valuation or Assessment Roll, to the Warden of the County in which the Municipality lies, within *fourteen* days after they have completed such Roll.

Provision as to Municipalities in Lower Canada where Assessment Rolls are not made yearly.

Proviso: officers of Militia may be appointed to make such Rolls.

Powers of officers making the rolls.

12. In those Municipalities in Lower Canada in which the valuation or assessment is not made yearly, the assessors or valutors shall, between the first day of February and the first day of May, in each year in which such Roll is not made, make out Militia Rolls for the Municipality, containing the particulars above mentioned, and shall certify the same as above directed and transmit them to the Warden of the County in which the Municipality is situated, before the first day of June in each such year; provided always, that the Commander in Chief may, in any year, appoint any one or more officers of the Militia to make such Militia Rolls in any Parish, Township or other local Municipality in Lower Canada; And in respect of such Rolls the said assessors and valutors and each of them shall have the duties and the same powers for obtaining the requisite information, as they have with respect to the ordinary Valuation or Assessment Rolls and the Militia Rolls forming part thereof.

Proviso: Commander in Chief may cause the Militia Rolls to be made by Militia Officers in certain cases.

Their powers and duties.

13. Provided always, that in all cases where the Commander in Chief shall find that a failure to make the Militia Roll for any Municipality has occurred, or sees reason to fear that such failure may occur, in any year, he may appoint one or more Officer or Officers of Militia, resident within such Municipality, to make the Militia Rolls therein for such year; and such Officer or Officers shall then have, with respect to such Rolls, all the powers and perform all the duties, and be subject to all the liabilities, which the Assessors or Valutors for such Municipality would otherwise have had or have been subject to, with respect to the same.

Secretary-Treasurer to have the Rolls and make the County Roll from them.

14. The Secretary-Treasurer of each County Council in Lower Canada, to whom the copies of the proper Assessment, Valuation or Local Militia Rolls, shall for that purpose be forthwith, after their receipt, delivered by the County Warden, shall, within fourteen days after the receipt by him of such Rolls,

Rolls, carefully compile from them the County Militia Rolls, shewing the names and residences of those on the "First Class Service Militia Roll," "Second Class Service Militia Roll" and "Reserve Roll" and shall make and attach to the said Rolls the following certificate to be signed by him:

"I do certify that I have truly and faithfully compiled from the Assessment, Valuation and Militia Rolls of the several Municipalities in the County of _____ the County Militia Rolls hereto appended."

Certificate.

And shall verify the same on oath before a Justice of the Peace, and such County Militia Rolls, so certified, shall be by the said Secretary-Treasurer forthwith delivered to the Registrar of the County, to be filed in his office for use as aforesaid; and the Secretary-Treasurer of such County Council shall be paid for the same at the rate of twenty-five cents for the compilation of the names and residences of every one hundred persons on the said County Militia Rolls.

Oath.

County Rolls to be given to and kept by the Registrar.

Fee to Secretary-Treasurer.

15. The several provisions of the Lower Canada Consolidated Municipal Act, and the Acts amending it, and the provisions of every special Act incorporating or governing any Town or City in Lower Canada, relative to Assessments or Valuations, shall be applicable to the enrolment of the Service Militia as hereinabove mentioned, and shall, in so far as such enrolment extends, be read and deemed as part thereof, and every Assessor or Valuator shall, as regards the making of the said Militia Rolls, have the same duties and powers and the same liabilities, in case of any default on his part, as he has with regard to the Assessment or Valuation Rolls.

Provisions and powers for making Assessment Rolls, extended to Militia Rolls.

16. All tavern-keepers, keepers of boarding houses, persons having boarders in their families, and every master and mistress of any dwelling house, shall, upon the application of any Assessor or Valuator, give information of the names of all persons residing or lodging in such house, liable to be enrolled, and all other proper information concerning such persons as such Assessor or Valuator may demand.

Tavern Keepers, &c., to give all necessary information.

PROVISIONS APPLYING TO THE WHOLE PROVINCE.

17. The Commander in Chief may call out the Militia or any part thereof for actual service, whenever it is in his opinion advisable so to do by reason of war, invasion or insurrection, or danger of any of them.

Power to call out the militia.

18. The Militia appearing by the then last Service Militia Rolls as resident in each Regimental division shall for the time being form the Regiment of the Regimental division in which they reside;—and each Regiment shall be composed in the following manner: The first and each succeeding Service Battalion of

Regiments of Militia how composed.

Battalions of Service Men.

How the men
to form them
shall be deter-
mined.

Proviso : as to
Service men
balloted.

Officers of each
Battalion.

Proviso : ap-
pointment may
be provisional.

Battalions of
service men
to be taken
first for active
service.

When only part
of the Militia is
called out.

Commander in
chief may direct
the organiza-
tion of Service
Battalions from
each Regiment.

And order what
number of men
shall be fur-
nished from
each place.

of a Regiment shall be composed of ten Companies, and shall embrace in the whole, exclusive of the proper complement of non-commissioned Officers, the number of seven hundred and fifty Service Men; and shall be taken as hereinafter provided, in the first place from the names on the First Class Service Roll, and when the names on the First Class Service Roll shall have been exhausted, from the names on the Second Class Service Roll, and, when those names shall have been exhausted either by organization in Battalions or by reliefs for Battalion: already in existence, then recourse shall be had to the names on the Reserve Roll; Provided, that every person who may be balloted as hereinafter mentioned, shall, from the time of such ballot, and during the period for which he shall remain in an organized Service Battalion, be exempt from non-Service enrolment.

19. To each Service Battalion of any such Regiment may be appointed at such time as the Commander in Chief may think fit, a Lieutenant-Colonel, two Majors and such number of Regimental Staff Officers as may be deemed necessary, and for every Company of seventy-five men may be appointed a Captain, a Lieutenant, and an Ensign; provided always, that in such cases as the Commander in Chief may think fit, the appointment of any such Officers shall be provisional only and its confirmation contingent on proof of the qualification of such Officer as hereinafter provided.

20. When the Service Militia or any part thereof is called out in case of war, invasion or insurrection, or danger thereof, those taken from the Regiment for actual service shall be firstly the Battalions composed of First Class Service Men, secondly, of Second Class Service Men, and lastly the Battalions composed of Reserve Men.

21. When the Commander in Chief calls out the Militia, and the emergency is not such as to require that the whole of the Service Militia or of any class thereof, be taken for actual service, he may from time to time direct the number of Battalions to be furnished from the Service Militia of the whole province or of any Regimental Division thereof.

22. The Commander in Chief may, from time to time, by General Order, direct the organization of such number of Service Battalions from each Regiment of Militia as shall appear to him proper, and may direct at any time that the Ballot shall be taken in manner hereinafter provided for the purpose of organizing such Battalion or Battalions or of filling up vacancies in any Battalion or Battalions already organized, and such order shall in every case specify the proportion of men to be furnished for each such Battalion or relief from each Township, Parish, City, Town or Incorporated Village having reference to the proportion of population of the same as appearing

appearing by the last census, or in case of Municipalities incorporated since the last census to the proportion of population of such Municipality as shewn by the Militia Rolls.

23. For the purpose of organizing the Battalions hereinbefore mentioned, the Sheriff in Upper Canada, or the Registrar in Lower Canada, of the County forming such Regimental Division, shall, at some period in the year one thousand eight hundred and sixty-four, to be fixed by the order of the commander in chief, and in each third succeeding year, within twenty-one days after the completion and filing of the Militia Rolls for the County, summon the County Judge and Warden of the County in Upper Canada, or in Lower Canada, the Warden and one or more Officers of the Service Militia of the County, to be designated to him by the Commander in Chief, to meet him at the Court House at the County Town in Upper Canada,--or in Lower Canada at the Office of the said Registrar,--and shall also forthwith summon the Clerk of the Peace of the County in Upper Canada, to attend with the County Militia Rolls as aforesaid,--for the purpose of balloting from the names appearing on the Service Rolls, or the "Reserve Roll," as the case may be, for the requisite number of men to form a Battalion or Battalions of the Regiment, as may be required by the Commander in Chief to be organized.

Proceedings for determining by ballot what service-men shall form the several service Battalions of a Regiment.

Certain officers to attend the ballot.

24. Each Battalion so organized shall be and continue so organized for a period of three years, and thence until the organization of a Battalion or Battalions in the same County in each three succeeding years, when the same shall be deemed to be disbanded, and shall be succeeded in its organization by the Battalion or Battalions to be formed by Ballot in such succeeding third year; but in the event of the Militia being called out for actual service, any such Battalion, organized as aforesaid, shall serve for the period mentioned in the thirty-second section of this Act; Provided that if during the period of three years for which any person shall be balloted as a First Class or Second Class Service man, he shall attain such age as would exempt him from service as a First or Second Class Service man, such exemption shall have no force or effect until after the expiration of the period of three years for which he shall have been so balloted; And provided that any Battalion or Reliefs of Battalions subsequent to the first battalion shall continue as organized and enrolled for a period of three years from the organization and enrolment of the first Battalion, when such succeeding Battalion or Reliefs shall be deemed to be disbanded as hereinbefore mentioned as to the first Battalion, it being the intent and meaning of this Act, that a Ballot shall in the year eighteen hundred and sixty-four, and in each succeeding third year thereafter be taken from the full number of names appearing on the then Militia Rolls.

Battalions so organized to remain so for three years.

Proviso if called out.

Proviso: as to men attaining certain ages after being balloted.

Ballot in each third year from the whole number of names on the Rolls.

Ballot for
selecting the
men to com-
pose any
Battalion.

25. The Sheriff, County Judge and Warden of the said County, in Upper Canada, and the Registrar, warden and Officer or Officers of Militia designated as aforesaid in Lower Canada, shall then proceed to select from the Militia Rolls, in the order hereinbefore mentioned, the names of the requisite number of persons to form a Battalion of the Regiment of the said Regimental Division, and the selection shall be conducted in the following manner, that is to say :—

Ballots, to be
put into a box,
&c., and
shaken.

1. The name of each person appearing on the Service Rolls or Reserve Roll, as the case may be, of the said County, shall, by the Clerk of the Peace, or the Registrar of the County, be written distinctly on a piece of parchment, card or paper, as nearly as may be of the size following :—

JOHN SMITH,
*of (designating his residence
by lot, concession or range,
township, parish, street, &c.,
as the case may be.)*

and so many of such names, as shall appear to be resident within any Township, Parish, City, Town or Incorporated Village mentioned in the order of the Commander in Chief, requiring the organization of the Battalion or relief, and in the case of a Ballot for relief excluding the names of such men as are already enrolled in service battalions, so written, shall, by the direction and care of such Sheriff or Registrar, be put together in a box or urn to be by him provided for that purpose, and such box or urn shall be shaken so as sufficiently to mix the names ; but at no time shall more than one son belonging to the same family residing in the same house, if there be two inscribed on the Militia Roll, be drawn, unless the number of names inscribed be insufficient to complete the required proportion of service men ;

Drawing the
Ballots, and
making up
the Roll.

2. The County Judge or Warden in Upper Canada, or the Registrar, Warden or the Militia Officers designated as aforesaid, or one of them, shall then draw out a sufficient number of names to complete the number of men specified as the proportion to be furnished to the Battalion or relief by such Township, Parish, City, Town or Incorporated Village, and each name as called out shall be transcribed by the Clerk of the Peace or the Registrar, on a Battalion or relief Roll ; and he shall specify, opposite the name of each person, his place of residence as aforesaid, and such Battalion or relief Roll shall be signed by the said Sheriff, County Judge, Warden and Clerk of the Peace in Upper Canada, or any two of them, and by the Registrar, Warden and one at least of the Militia Officers designated as aforesaid in Lower Canada, and shall by the Sheriff or Registrar be transmitted within ten days thereafter

to the Adjutant General ; and the Clerk of Peace or the Registrar (as the case may be) shall, on the Service Roll or Reserve Roll (as the case may be,) insert the letter B opposite the name of each person so balloted.

26. The provisions of the three preceding sections shall apply to the case of each succeeding Battalion, other than the first Battalion, required by the Commander in Chief to be organized in any Regimental Division, and also to the case of reliefs whenever required by General Order of the Commander in Chief, to be balloted for to keep up the organization of a Battalion to its full strength as hereinbefore provided, and may also be adopted at any period in any year for the purpose of organizing any additional Battalion or Battalions of any Regiment required by General Order of the Commander in Chief ; Provided that in any Ballot for each succeeding Battalion other than the first Battalion or for any Reliefs, the names of such men as have been theretofore balloted for and enrolled in an organized Battalion, shall be excluded from any Ballot taken subsequently during the period of three years hereinbefore mentioned.

Same provisions to apply to formation of any other Battalion.

27. In the case of a Union of Counties for Municipal and Judicial purposes, the same shall be treated as distinct for Militia purposes ; but the proceedings hereinbefore provided as to ballot in a County shall be applicable to each County of the United Counties, in which said County any portion of the Militia may be organized or may be called out for actual service.

Provision as to Unions of Counties.

28. No man of any Regiment of Service Militia shall be exempt from actual service when called out, unless exempt by this Act or unless he forthwith provides an approved man of the same class, who may not have been balloted and who is willing to serve as a substitute, and any substitute by his consent to act as such, shall become liable in all respects as if balloted.

Men drafted must serve or find a substitute.

29. No man unfit from bodily infirmity to perform his duty, shall be obliged to serve.

Infirm persons exempted.

30. Whenever such may be deemed requisite and so ordered by the Commander in Chief, the Service Battalion or Battalions so organized as hereinbefore mentioned, shall, by the Officer appointed to command them, be warned by a notice to be served at the last known place of abode of each person so balloted as before provided, to attend on a day and place to be stated in such notice for muster and inspection according to such regulations as the Commander in Chief may prescribe by General Order for that purpose ; and whenever the Militia or any Service Battalion shall be called out for actual service, each such Battalion so called out shall be warned as aforesaid and shall

Mode of notifying the men balloted when the Battalion is called out.

Men to be warned and marched to the place appointed for their organization.

Officers.

shall attend forthwith at some place and shall be marched to such place as the Commander in Chief may appoint, and shall there be organized for service, in such manner as the Commander in Chief may direct, and shall be commanded by such Officers as from their qualification and fitness he thinks proper to appoint, such Officers to be taken in preference from the Regimental Division so far as a sufficient number of persons duly qualified can be found therein.

Service Militia may be called out for six days drill.

31. The Service Militia or any Battalion or Company, thereof, may at any time in each year, be called out by General Order of the Commander in Chief for drill or instruction within each Regimental Division, for a period not exceeding six days, under and pursuant to such rules and regulations in that behalf, as may be prescribed in any such General Order, and each non-commissioned officer and man, shall be paid for each day's actual and *bonâ fide* drill as aforesaid, the sum of fifty cents.

Term of service of enrolled men.

32. The Service Militia or such Battalion or Battalions as shall from time to time be called out for actual service, shall serve during three years computed from the date of the order by which they shall have been called out for actual service, unless sooner disbanded, and may then be replaced by others to be called out in the manner hereinbefore specified, and shall not be liable to be again called out until all others in the same class have been taken.

To what places may be marched.

33. The Militia, so called out, may be marched to any part of the Province, or to any place without the Province but conterminous therewith, where the enemy is, and from which an attack on this Province is apprehended.

Militia called out to be subject to Queen's Regulations and to articles of war when on active service.

34. The Militia, when organized and enrolled, and every Officer or man belonging to it, shall be subject to the Queen's regulations and orders for the army, and shall, from the time of being called out for actual service, be subject to the Rules and Articles of War and to the Act for punishing mutiny and desertion, and all other laws then applicable to Her Majesty's Troops in this Province, and not inconsistent with this Act; except that no man shall be subject to any corporal punishment except death or imprisonment for any contravention of such laws; and except also that the Commander in Chief may direct that any provisions of the said laws or regulations shall not apply to the Militia.

Exception.

Exception.

For what offences only Militiamen may be sentenced to death.

Sentence must be first approved.

35. No Officer, non-commissioned Officer or private in the Militia, shall be sentenced to death by any Court Martial except for mutiny, desertion to the enemy, or traitorously delivering up to the enemy any garrison, fortress, post or guard, or traitorous correspondence with the enemy;—And no sentence of any General Court Martial shall be carried into effect until approved by the Commander in Chief.

36.

36. No Officer of Her Majesty's regular Army on full pay shall sit on any Militia Court Martial.

Officer of regular Army on full pay not to sit, &c.

OFFICERS.

37. All Commissions of Officers in the Militia shall be granted by the Commander in Chief and during pleasure; no person shall be an Officer of Militia unless he is one of Her Majesty's subjects by birth or naturalization; and every Officer shall, on receiving his Commission or as soon afterwards as may be, take the oath following:

Commission, by whom granted.

Officers must be Her Majesty's subjects.

"I, A. B. do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty in Canada, for the defence of the same against all Her enemies and opposers whatsoever"

To take an oath of fidelity.

and the name of the successor of Her Majesty Queen Victoria, for the time being, shall be substituted as occasion may require, and the oath shall be administered by a Justice of the Peace of the County in which the Officer resides.

38. Commissioned Officers of the Militia shall furnish their own uniform, arms and accoutrements.

Officers' arms and uniform, &c.

39. Commissions in the Militia, existing immediately before the passing of this Act, shall remain in force, the same being nevertheless subject to be cancelled by the Commander in Chief; and shall be deemed to constitute such officers as belonging to the Regimental division in which they respectively reside; and all officers of the Militia to be hereafter appointed shall be designated in their commission as officers of the Regimental Division, unless specially appointed to Battalions;—But no person shall be bound to serve in the Militia in a lower grade than he has once held, unless he has resigned his commission or is reduced by sentence or order of some lawful Court or authority;—Provided that no future appointment to rank in the Militia shall be higher in time of peace than Lieutenant-Colonel.

Existing Commissions continued, until cancelled, &c.

No person bound to serve in a lower grade than he has held.

Proviso: no rank above Lieut. Colonel, in peace.

40. The Commander in Chief may, whenever the Militia is called out, and the exigencies of the service so require, appoint Colonels in the same.

Colonels when militia is called out.

41. Officers of Her Majesty's Army shall always be reckoned senior to all Officers of the Militia of the same rank, whatever be the dates of their respective commissions;—And Colonels appointed by Commission signed by the Officer Commanding Her Majesty's Forces in Canada, shall command Colonels of Militia, whenever hereafter appointed, (except the Adjutant General of the Militia), whatever be the dates of their respective Commissions.

Respective rank of officers in militia and H. M. army.

Officer to pass
School of In-
struction or an
examination
before appoint-
ment or promo-
tion.

42. After the passing of this Act, no officer of the Service Militia shall be appointed or promoted except provisionally until he shall have satisfactorily passed through the school of military instruction hereinafter referred to, and received a certificate thereof, or until he shall have satisfactorily passed an examination before the Board hereinafter mentioned and received a certificate thereof.

Boards to be
constituted for
the examina-
tion of officers.

43. The Commander in Chief may, by General Order, from time to time, appoint a Board or Boards, to be constituted of three or more Officers of the Militia, of whom one shall be a Field Officer, and to be held at such place as is therein specified, to examine any such Officers of the Militia as may desire to have investigated their knowledge of and proficiency in drill and military duties generally; and upon any such examination, the said Board or Boards shall report the result thereof to the Commander in Chief, and shall, after the approval thereof by him, deliver to any such Officer, as may have satisfactorily passed such examination, a certificate thereof, which said certificate shall be recorded in a book to be kept for that purpose in the Office of the Adjutant General of Militia; and the certificate thereafter delivered to the Officer so examined, and the fact of such examination and certificate shall be notified in General Orders.

Certificate if
found qualified.

Adjutant Gen-
eral may be
appointed.

44. The Commander in Chief shall have full power to appoint to the office of Adjutant General of Militia an officer who has been educated to the military profession, and thoroughly competent to the satisfaction of the Commander in Chief to discharge the duties of the said office of Adjutant General; and the duties of Adjutant General, during the vacancy of the office, shall be performed by the Deputies Adjutant General for Upper and Lower Canada respectively, under orders from time to time of the Commander in Chief, or by such Officer as may be appointed by the Commander in Chief on any occasion for the special and temporary discharge of any such duties.

Deputy to per-
form duties in
case of vacancy.

Pay of Adju-
tant General.

45. The Adjutant General, when appointed as aforesaid, shall act as such for the whole Province, and shall have the rank of Colonel in the Militia, and as such be the Senior Officer of the Militia, and shall be paid by the Province at the rate of three thousand dollars per annum, and allowances while discharging the duties of his office.

Deputy Adju-
tants General.
Their pay.

46. There shall be a Deputy Adjutant General for Upper Canada, and a Deputy Adjutant General for Lower Canada; and each of them shall have the rank of Lieutenant-Colonel in the Militia, and shall hold his Office during pleasure; and each of the said Officers shall be paid by the Province at the rate of two thousand dollars, per annum.

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47. The Commander in Chief may appoint in and for each Regimental Division such staff Officers as may in his opinion be requisite and also an Assistant Quarter Master General of Militia, whose duty it shall be to make himself thoroughly acquainted with the roads and communications and other matters appertaining to the topography of his Regimental Division, and to furnish such information on the subject as may be required by the Commander in Chief, in which duty the Officers of the Companies of Volunteer Engineers shall assist him with the local information they acquire.

Regimental
Staff officers
and an Assis-
tant Quarter
Master Gene-
ral.

Duties.

48. All non-commissioned officers in the Militia shall be appointed by the officer commanding the Corps to which they belong,—and shall hold their rank during pleasure, and any person who has been a non-commissioned officer in Her Majesty's service, shall not be bound to serve in the Militia in a lower grade than he held in Her Majesty's service, unless he had, at the time of leaving Her Majesty's service, been reduced from such grade.

Non-commis-
sioned officers.

As to those
who have been
in H. M. ser-
vice.

49. Whenever the Militia or any part thereof shall be called out by reason of war, invasion, insurrection or imminent danger thereof, the officers, non-commissioned officers and men of the Militia, so called out for Actual Service, shall be paid at such rates of daily pay, and shall receive such allowances in every respect, as are paid and allowed to officers and men of the relative and corresponding rank or grade in Her Majesty's Service.

Pay of Militia
called out for
active service.

CORPS FOR GENERAL SERVICE.

50. The Commander in Chief may, in the event of war, raise, in addition to the Militia, regiments of Militia by voluntary enlistment for General Service, during such war, and for a reasonable time after its termination; such regiments to be subject to the provisions of this Act.

Raising Regi-
ments in time
of war.

DRILL ASSOCIATIONS.

51. The Commander in Chief, if he thinks fit may sanction the organization of associations for purposes of Drill and of independent Companies of Infantry composed of professors, masters or pupils of Universities, Schools or other public Institutions, or of persons engaged in or about the same, or of Militia Officers, or of men on the Militia Rolls, or of such other persons as he may see fit, but such Associations or Companies shall not be provided with any clothing or allowance therefor.

Certain asso-
ciations may be
organized but
not clothed or
paid.

SCHOOL OF MILITARY INSTRUCTION.

52. For the purpose of enabling Officers of Militia or candidates for commissions or promotion in the Militia to perfect

School of In-
struction may

be established
in each sec-
tion of the
province.

Commander in
chief may
make regu-
lations.

perfect themselves in a knowledge of their military duties, drill and discipline, the Commander in Chief may establish a School of Military Instruction in each section of the Province, and for that purpose may enter into arrangements with the Officer Commanding Her Majesty's Forces in British North America, for the best means of effecting the same in connection with any Regiment or Regiments of Her Majesty's Forces ; and may make all necessary Rules and Regulations, and as to the terms upon which such instruction may be compensated for, and generally for the advancement of Military Education amongst the Officers and Candidates for Commissions as afore-said.

May select the
pupils and fix
the allowance
to be made to
them.

53. The Commander in Chief shall from time to time, and from among the applicants for such purpose, select such persons in each section of the Province as he may think fit for the purpose of attending such school of Military Instruction and if necessary remove the same ; and shall by General Order prescribe the allowances to be paid to such persons during their stay at the same, and the period for which they shall undergo such instruction.

Such pupils to
be subject to
Queen's Re-
gulations,
Articles of
war, &c.

54. Every person who shall have entered upon the course of Military Instruction as hereinbefore provided, shall thereupon and thenceforth and for the period prescribed in such General Order and upon his signing a Roll of Entry for such instruction, be subject to the Queen's Rules and Regulations, the Mutiny Act and the Rules and Articles of War, and to such other Orders, Rules and Regulations, of whatever nature or kind to which Her Majesty's Troops are subject.

Appropriation
for such school.

55. In any appropriation of moneys for Militia purposes, there shall be set apart a sum not less than one hundred thousand dollars for the purposes of carrying into effect the provisions of the three preceding clauses, to be accounted for as hereinafter required.

DEPARTMENT OF MILITIA AFFAIRS.

Minister of
militia and his
duties.

56. There shall be a Minister of Militia, who shall be appointed from among the heads of the Public Departments, and who shall be charged with the administration of Militia Affairs, and of the ordnance, ammunition, arms, armories and other stores and provisions and habiliments of war belonging to the Province.

NON SERVICE MILITIA.

NON SERVICE ENROLMENT.

Non-Sc. vice
militia,—what.

57. The organisation existing at the time of the passing of this Act and known as the Sedentary Militia, shall be and continue

continue hereunder and known and designated as the Non Service Militia ; but so soon as any Non-Service Militiaman shall be balloted for and enrolled in an organized Service Battalion under the provisions hereinbefore contained, he shall be from thence and so long as he continues so enrolled, exempt from being a Non-Service Militiaman.

58. In time of peace, no actual service or drill shall be required of the Non-Service Militia, but they shall be carefully enrolled from time to time ;—And those of the first class and second class Service Men not exempted from muster, shall also assemble for muster annually, at such place and hour, in such manner and for such purposes, as the Commanding Officer of each battalion may direct with respect to each company therein ; the muster day being in Lower Canada the twenty-ninth of June, or if that day fall on a Sunday, then the next day thereafter ;—and in Upper Canada the Queen's Birthday, or if that day fall on a Sunday, then the day next thereafter ;

Enrolment only required of Non-Service men in time of peace.

Annual muster.

Muster days.

2. Except that the Commander in Chief may, in his discretion, direct that the annual Muster day of Non Service Militia in each Regimental Division, be the twenty-ninth day of June.

Exception.

59. The Commander in Chief may, by any Militia General Order, dispense with the annual general muster of the Non Service Militia or any part thereof in either Section of the Province, either in any particular year or until further order, and may in like manner again direct such muster to be held, if he sees fit ;—and any such order shall have the force of law according to the terms thereof.

Commander in chief may dispense with muster.

60. The Commander in Chief may, from time to time, by any Militia General Order, divide the Regimental divisions into Battalion divisions, and may designate such divisions by such names or numbers as he sees fit, but until any such General Order, all Battalion divisions within each County, shall remain as heretofore and now established.

Regimental and Battalion divisions.

61. The Militia resident in each Battalion division shall form a Battalion of the Regiment of the Regimental division in which it lies ;—and all the Battalions in any Regimental division shall form the Regiment thereof.

Battalions and Regiments how formed.

62. To each Battalion a Lieutenant Colonel, and such number of Majors and Regimental Staff Officers, may be appointed as may be deemed necessary.

Field and Staff Officers.

63. Each Lieutenant Colonel shall, from time to time, divide his Battalion Division into Company divisions, each containing as nearly as may be conveniently practicable, not less than fifty nor more than seventy-five resident Service men ;—And the Militia resident within each Company division shall form a Company of the Battalion.

Company divisions, how formed.

Commissioned
and non com-
missioned
officers.

64. All Officers at the time of the passing of this Act holding Commissions in any Battalion of Militia shall retain the same during pleasure, and from time to time there may be appointed of Commissioned Officers, a Captain, a Lieutenant, and an Ensign; and of non-Commissioned Officers, three Sergeants and three Corporals.

Surgeons, &c.

65. The Commander in Chief may appoint to all Militia Battalions, the proper number of Surgeons and Assistant Surgeons.

Enrolment
how made.

Duty of officers
as to the
Roll.

66. The enrolment of the non service Militia shall be made in each Company division by the Captain thereof, with the assistance of the Officers and non-commissioned Officers of the Company;--And it shall be the duty of the Captain, and, under his orders, of the other Officers and non-commissioned Officers of the Company, by actual enquiry at each house in the Company division, and by every other means in their power, to make and keep at all times a correct Roll of the Company in such form as may be directed by the Adjutant General.

Militiamen
bound to give
in their names.

67. Each man liable under this Act for non service enrolment in any Company, and not so enrolled, shall give in his name, age and place of residence, in writing, to the Officer commanding such Company, within twenty days after he becomes so liable, whether by the alteration of any Militia division, change of residence, or otherwise howsoever.

Rolls of Com-
panies to be
made yearly.

Returns of
battalions.

Corrected rolls
may be
required.

68. Each Officer commanding a Company of the non service Militia shall, within twenty days after the annual muster day for such Company, make out a corrected Roll thereof, and transmit a certified copy thereof to the Officer commanding the Battalion, who, within forty days after such muster, shall forward a correct Return of the Battalion under his command to the Adjutant General at Head Quarters;--And the Commander in Chief, may, whenever he deems it necessary, order that a corrected roll of every such Company of the Militia be made out; and it shall be the duty of every Officer commanding a Company, within ten days after such order has been received, to make out such corrected Roll and to cause a copy thereof to be transmitted as provided by the foregoing provisions of this section.

**BILLETING AND CANTONING TROOPS AND MILITIA WHEN ON
ACTUAL SERVICE, AND FURNISHING CARRIAGES, HORSES,
&c., FOR THEIR TRANSPORT AND USE.**

What shall be
furnished by
those on whom
they are billet-
ed.

69. When the Troops of Her Majesty's Service or the Militia or any part thereof are on a march within this Province, and billeted as hereinafter mentioned, every householder therein shall, when required, furnish them with house-
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room, fire and utensils for cooking, and candles;--And in cases of emergency, by actual invasion or otherwise, the Officer commanding the Regiment, Battalion or Detachment of Troops or Militia, may direct and empower any Officer or non-commissioned Officer of the same, or other person, after having first obtained a warrant for such purpose from a Justice of the Peace, to impress and take such horses, carriages or oxen as the service may require, the use of which shall be thereafter paid for at the usual rate of hire for such horses, carriages or oxen.

Impressing
carriages, &c.,
on emergency.

70. When the said Troops of Her Majesty, or the Militia or any part thereof, or any Regiment, Battalion, or Detachment of the same, are on a march as aforesaid, the officer or non-commissioned Officer commanding them shall require a Justice of the Peace to billet, and such Justice shall immediately thereupon so billet the said Troops or Militia as to facilitate their march, and in such manner as may be most commodious to the inhabitants;--And every inhabitant householder shall receive the Troops or Militia so billeted upon him, and furnish them with the lodging and articles mentioned in the next preceding section.

Justice of the
Peace to billet
on requisition
of Command-
ing Officer.

71. No Officer shall be obliged to pay for his lodging where he is regularly billeted; but each householder upon whom such soldiers are billeted shall receive from Government for each non-commissioned Officer, Drummer and Private of Infantry, a daily rate of ten cents, and for each cavalry soldier, whose horse shall be also provided with stabling and forage, a daily rate of twenty-five cents; And every Officer or non-commissioned Officer to whom it belongs to receive, or who does actually receive the pay for any officers or soldiers, shall, every four days, or before they quit their quarters if they do not remain so long as four days, settle the just demands of all householders, victuallers, or other persons upon whom such officers and soldiers are billeted, out of their pay and subsistence money, before any part of the said pay or subsistence money shall be distributed to them respectively, provided such demands do not exceed in amount their pay and subsistence money for the time, beyond which credit is not to be granted.

Lodging of
Officers not to
be paid for.

Allowance for
men billeted.

Proper Officer
to settle ac-
counts of Offi-
cers and sol-
diers out of
their pay, &c.

72. When the safety of this Province requires that the said Troops of Her Majesty or Militia, or any Regiment, Battalion or Detachment of the same should be cantoned in any part of this Province, any Justice of the Peace in the places where such Troops or Militia are cantoned, shall, upon receiving an order from the Officer commanding them, or on a requisition from the Officer commanding any such cantonment, quarter and billet the Officers, non-commissioned Officers, Drummers and Privates of the said Troops or Militia, upon the several inhabitant householders, as near as may be to the place of cantonment, avoiding as much as possible to incommode the

Quartering
and billeting
troops, &c., in
cantonments.

said

said inhabitants, and taking due care to accommodate the said Troops or Militia.

Complaint of persons aggrieved, and how redressed.

73. If any inhabitant considers himself aggrieved by having a greater number of the said Troops or Militia billeted upon him than he ought to bear in proportion to his neighbours, then on complaint being made to two or more Justices of the locality where such Troops or Militia are cantoned, they may relieve such inhabitant, by ordering such and so many of the said Troops or Militia to be removed and quartered upon such other person or persons as they see cause, and such other person or persons shall receive such Troops or Militia accordingly.

No Justice, being an Officer to billet or quarter troops.

74. No Justice of the Peace having any Military Office or Commission in the said Troops or Militia, shall directly or indirectly be concerned in the quartering or billeting of any Officer, non-commissioned Officer, or Soldier of the Regiment, Corps or Detachment under the immediate command of such Justice or Justices.

Troops not to be billeted upon Nuns, &c.

75. Nothing in this Act contained shall be construed to authorize the quartering or billeting of any Troops or Militia either on a march or in cantonment, in any Convent or Nunnery of any Religious Order of Females, or to oblige any such Religious Order to receive such Troops or Militia, or to furnish them with lodging or house room.

Justice may require persons to furnish carriages, &c., or troops.

76. When any Troops of Her Majesty or any Militia are so cantoned as aforesaid, any Justice of the Peace where such cantonment is made, upon receiving an order to that effect from the Officer commanding the said Troops or Militia, or a requisition in writing from the Officer commanding that cantonment, for such and so many carriages as may be requisite and necessary for the said Troops or Militia,--shall issue his Warrant to such person or persons as are possessed of carriages, horses or oxen, within his jurisdiction, requiring him or them to furnish the same for the service aforesaid, and if any person, after receiving such Warrant, refuses to furnish the same, they may be impressed and taken for such service ;--But no such carriage, horse or ox, or any carriage, horse or ox mentioned in the previous sections of this Act, shall be compelled to proceed more than thirty miles, unless in cases where other carriages, horses or oxen cannot immediately be had to replace them ; and such carriages, horses or oxen shall be paid for at the usual rate of hire.

May be impressed on refusal to furnish.
Limitation of travel.

How paid for.

In case of emergency boats, &c., may be required in like manner.

77. In cases of emergency, when it is necessary to provide proper and speedy means for the conveyance by railway or by water of the Troops of Her Majesty or of the Militia, and also of their ammunition, stores, provisions and baggage,--any Justice of the Peace of and in the locality where such Troops or Militia are

are either on a march or in cantonment, upon receiving a requisition in writing from the Officer commanding such Troops or Militia, for such railway cars and engines, boats or other craft, as are requisite for the conveyance of the said Troops or Militia, and their ammunition, stores, provisions and baggage,---shall issue his warrant to such person or persons as are possessed of such railway cars and engines, boats or other craft within his jurisdiction, requiring him or them to furnish the same for that service, at and after the rate of payment to be allowed by the said Justice, not exceeding the usual rate of hire for such railway cars and engines, boats or other craft;---And if any such person neglects or refuses, after receiving such warrant, to furnish such railway cars or engines or boats or other craft for that service, such railway cars or engines, boats or other craft may be impressed and taken for such service;---But nothing herein shall impair the effect of any Act obliging any Railway Company to convey such Troops, Militia, and other articles aforesaid, in any manner or on any terms and conditions therein mentioned, or to release any such Company from any obligation or penalty thereby imposed.

Rate of pay
for the same.

May be im-
pressed on re-
fusal to furnish.

As to Railway
Companies.

OFFENCES AND PENALTIES.

78. Any Officer or non-Commissioned Officer appointed or to be appointed to the Militia, who obtains under false pretences or who retains or keeps in his own possession, with intent to apply to his own use or benefit, any moneys belonging to any non-commissioned officer or private of any Corps, or moneys of any kind for Militia Services, shall be guilty of this misdemeanor, and shall be reduced to the ranks of the Militia.

Unlawfully
retaining mo-
neys belong-
ing to militi-
men to be a
misdemeanor.

Offender redu-
ced to the
ranks.

79. Any Sheriff, Warden, Registrar, Assessor, Valuator, Clerk of a County Council in Upper Canada, Secretary-Treasurer of a County Council in Lower Canada, Clerk of the Peace, or Militia Officer designated by the Commander in Chief for making the Militia Rolls, refusing or neglecting to perform the duties hereinbefore required of him, shall be liable, on conviction, to a penalty not exceeding fifty dollars.

Sheriffs and
other Officers
refusing to per-
form their du-
ties under this
Act to be
liable to a
penalty.

80. Any person making an Affidavit or Declaration required in and by this Act, and swearing or declaring falsely therein, shall be guilty of perjury.

False swear-
ing to be per-
jury.

81. Any person refusing or neglecting to make or transmit, as herein prescribed, any Militia roll or return, or copy thereof, required by this Act or by any lawful authority, or wilfully making any false statement in any such roll, return, or copy, shall thereby incur a penalty of one hundred dollars for each offence.

Refusal to
make rolls, &c.

82. Any person of whom information is required by any Assessor or Valuator or Militia Officer making any Militia Roll,

Punishment of
persons re-
fusing informa-
tion to any as-

essor, &c.,
under this act.

Roll, in order to enable him to comply with the provisions of this Act, refusing to give such information or giving false information, shall forfeit and pay a penalty not exceeding twenty dollars for each item of information demanded of him and falsely stated, and the like sum for each individual name that may be refused, concealed or falsely stated, and every person refusing to give his own name and proper information, when applied to as aforesaid, or giving a false name or information, shall forfeit and pay a penalty not exceeding twenty dollars.

Or any notice
&c.

83. Any person whomsoever refusing or neglecting to give any notice or information necessary under this Act, shall thereby incur a penalty of twenty dollars for each offence.

Neglecting to
attend muster,
or misbehaving
thereat, &c.

84. Any officer, non-commissioned officer or man who neglects or refuses to attend any muster or inspection or parade at the place and hour appointed therefor, or who refuses or neglects to obey any lawful order at or concerning the same, shall thereby incur a penalty not exceeding five dollars for each offence.

Hindering Mi-
litia at drill.

85. Any person who interrupts or hinders any of the Militia at muster or inspection or parade, or trespasses on the bounds set out by the proper officer for the same, shall thereby incur a penalty not exceeding ten dollars for each offence, and may be taken into custody and detained by any person by the order of the Commanding Officer, until such muster or inspection or parade be over for the day.

Disobeying or-
ders, &c.

86. Any officer, non-commissioned officer or man of the Militia disobeying any lawful order of his superior officer, or guilty of any insolent or disorderly behaviour towards such officer, shall thereby incur a penalty not exceeding ten dollars for each offence.

Not keeping
arms, &c., in
proper order.

87. Any officer, non-commissioned officer or man of the Militia who fails to keep any arms or accoutrements delivered or entrusted to him in proper order, or who appears at muster or inspection or parade, or on any other occasion, with his arms or accoutrements out of proper order, or unserviceable, or deficient in any respect, shall incur a penalty not exceeding five dollars for each such offence.

Selling with-
out leave any
horse drilled
and approved
for any Troop,
&c.

88. Any officer, non-commissioned officer or man of the Militia, who, without the consent of his Commanding Officer, sells or disposes of any horse which has been drilled for the purposes of the Militia, or which he has undertaken to furnish for such purposes, and which has been approved by the Commanding Officer, shall thereby incur a penalty not exceeding thirty dollars for each offence.

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89. Any person who unlawfully disposes of or removes any clothing, arms, accoutrements or other articles belonging to the Crown, or who refuses to deliver up the same when lawfully required, or has the same in his possession, except for lawful cause, (the proof of which shall lie upon him) shall thereby incur a penalty of ten dollars for each offence;— But this shall not prevent such offender from being indicted and punished for any greater offence if the facts amount to such, instead of being subjected to the penalty aforesaid;— And any person charged with any act subjecting him to the penalty imposed by this section may be arrested by order of the Magistrate before whom the complaint is made, upon affidavit shewing that there is reason to believe that such person is about to leave the Province, carrying any such clothing, arms, accoutrements or articles with him.

Unlawfully
disposing of
arms, &c.

Not to prevent
indictment.

Arrest of of-
fender about
to leave the
Province.

90. Any Officer, non-commissioned officer or private of Militia who, refuses or neglects to obey any lawful order of his superior officer or of any magistrate, shall thereby incur a penalty of twenty dollars for each offence.

Militia re-
fusing to turn
out in aid of
civil power.

91. Any inhabitant householder who refuses or neglects to receive any Troops or Militia billeted upon him or to furnish them with the lodging and articles which he is by this Act required to furnish, shall thereby incur a penalty not exceeding ten dollars for each offence.

Refusing to
receive Militia
billeted.

92. Any person lawfully required under this Act to furnish any carriage, horse or ox, for the conveyance or use of any Troops or Militia, who neglects or refuses to furnish the same, shall thereby incur a penalty not exceeding ten dollars for each such offence.

Refusing to
furnish car-
riages, &c.,
when lawfully
required.

93. Any person lawfully required under this Act to furnish any railway car or engine, boat or other craft, for the conveyance or use of any Troops or Militia, who neglects or refuses to furnish the same, shall thereby incur a penalty not exceeding four hundred dollars for each such offence.

Or any car,
engine, boat
or craft.

94. Any person who, while the Militia is not called out for actual service, wilfully contravenes any enactment of this Act or any regulation or order lawfully made or given under it, when no other penalty is imposed for such contra-vention, shall thereby incur a penalty not exceeding ten dollars for each offence, but this shall not prevent his being indicted and punished for any greater offence if the facts amount to such; and in such cases courts martial shall not be held.

Contravening
this Act, where
no other pe-
nalty is pro-
vided.

No Courts
martial in such
cases.

95. All penalties incurred under this Act shall be recoverable, with costs, on the evidence of one credible witness, on complaint or information before one Justice of the Peace if the amount

Penalties
under this act
how recove-
rable.

Witnesses.

do not exceed ten dollars and before two Justices of the Peace if the amount exceeds that sum ;—And any officer, non-commissioned officer or private of the Militia shall be a competent witness in any such case.

Imprisonment
in case of non-
payment.

96. And in case of non payment of the penalty immediately after conviction, it shall be lawful for the convicting Justice or Justices to commit the person so convicted and making default in payment of such penalty and costs to the common Gaol of the judicial district, territorial division or locality in and for which the said Justice or Justices is or are then acting, or to some house of correction or lock-up house situate therein, for a period of not less than ten days when the penalty does not exceed twenty dollars, and for a period of not less than twenty days nor more than thirty days when it exceeds the last mentioned sum.

On whose com-
plaint penalties
may be sued for.

97. No prosecution against an Officer of Provincial Militia for any penalty under this Act shall be brought except on the complaint of the Adjutant or Deputy Adjutant General ;—And no such prosecution against any non-commissioned officer or private of the Militia, shall be brought except on the complaint of the Commanding Officer or Adjutant of the Corps to which such non-commissioned officer or private belongs ;—But the Adjutant or Deputy Adjutant General may authorize any officer of Militia to make such complaint in his name, and the authority of any such officer alleging himself to have been so authorized to make any complaint, shall not be controverted or called in question except by the Adjutant or Deputy Adjutant General.

Evidence of
authority to
sue.

Limitation of
time for such
prosecutions.

98. No such prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling or having in possession clothing, arms or accoutrements delivered to the Militia ; and no prosecution against any person named in the seventy-ninth section of this Act or against any Municipal Officer for any penalty under this Act, shall be brought except upon an order to that effect by or from the Minister of Militia.

Application of
penalties.

99. The penalty when recovered shall forthwith be transmitted to the Adjutant General, who shall account for and pay it over to the Receiver General as part of the Consolidated Revenue Fund.

MISCELLANEOUS PROVISIONS.

Orders and
notices need
not be in writ-
ing, if given in
person.

100. It shall not be necessary that any order or notice under this Act be in writing, unless it is herein required, that it shall be so, provided it be communicated to the person who is to obey or be bound by it in person, either directly by the officer or person making or giving it, or by some other by his order.

101. All General Orders of Militia, or other Militia Orders issued through or by the Adjutant General, shall be held to be sufficiently notified to all persons whom they may concern, by their insertion in the *Canada Gazette*,--And a copy of the said Gazette purporting to contain them shall be *prima facie* evidence of such orders.

General Orders
how notified.

Evidence.

102. All Orders made by the Officer Commanding a Corps shall be held to be sufficiently notified to all persons whom it may concern, by their insertion in some newspaper published in the locality, or, if there be none, then by posting a copy thereof on the door of the church or of some court-house, mill, or other most public place, in the Regimental Division.

Regimental or
Battalion Or-
ders, how no-
tified.

103. The production of a commission or appointment, warrant or order in writing, purporting to be granted or made according to the provisions of this Act, shall be *prima facie* evidence of such commission or appointment, warrant or order, without proving the signature or seal thereto, or the authority of the person granting or making such commission, appointment, warrant or order.

Evidence of
commissions,
warrants, &c.

104. Every bond to the Crown entered into by any person under the authority of this Act, or according to any General Order or Regulations made under it, or for the purpose of securing the payment of any sum of money, or the performance of any duty or act hereby required or authorized, before any Judge or Justice of the Peace, or officer therein authorized to take the same, shall be valid and may be estreated or enforced accordingly.

Bonds entered
into, in pur-
suance of this
Act, to be
valid.

105. Every sum of money which any person or corporation is under this Act liable to pay or repay to the Crown, or which is equivalent to the damages done to any arms or other property of the Crown used for purposes of the Militia, shall be a debt due to the Crown, and may be recovered in any manner in which such debts may be recovered.

Sums of mo-
ney payable to
the Crown
under this Act,
how recover-
able.

106. Every action and prosecution against any Officer or person, for any thing done in pursuance of this Act, shall be laid and tried in Lower Canada in the district, and in Upper Canada in the county, where the act complained of was done, and shall not be commenced after the end of six months from the doing of such act, nor until one month's notice in writing of the action and of the cause thereof has been given to the defendant;--And in any such action the defendant may plead the general issue and give this Act and the special matter in evidence at the trial;--And no plaintiff shall recover in any such action if a tender of sufficient amends was made before the action was brought, or if a sufficient sum of money has been paid into Court by the defendant after the action was brought.

Protection of
Officers, &c., in
pursuance of
this Act.

If plaintiff be
non-suit, &c.

107. If a verdict passes for the defendant in any action referred to in the next preceding section, or the plaintiff becomes non-suit or discontinues the action after issue joined, or if on demurrer or otherwise judgment is given against the plaintiff,—the defendant shall recover his full costs as between attorney and client, and shall have the same remedy therefor as any defendant hath in other cases ;—And though a verdict is given for the plaintiff, he shall not have costs against the defendant, unless the Judge before whom the trial has been had certifies his approbation of the action and the verdict therein.

Payment of
moneys under
this Act.

108. All sums of money required to defray any expense authorized by this Act, may be paid out of the Consolidated Revenue Fund of this Province, upon warrant directed by the Governor to the Receiver General ; and such warrants may be made in favour of the Adjutant-General of the Militia, to enable him to pay such expense, or in favour of the party directly entitled to the money ; But no sum of money shall be so paid out of the Consolidated Revenue Fund until first approved of by resolution of the Legislative Assembly in the annual estimates.

Proviso.

Accounting to
Parliament.

109. A detailed account of all moneys advanced or expended under this Act shall be laid before each Branch of the Provincial Parliament within fifteen days after the opening of the then next session thereof.

Repeal of for-
mer Acts.

Exception.

110. The thirty-fifth chapter of the Consolidated Statutes of Canada and the Act twenty-fifth Victoria, chapter one, are hereby repealed ;—Except that all offences heretofore committed against the said Consolidated Statute, may be prosecuted and punished under the same, which shall remain in force as to such offences.

27 VICT.

in any action
for the plaintiff
issue joined, or
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